

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Empowering Consumers to Prevent and Detect)	CG Docket No. 11-116
Billing for Unauthorized Charges (“Cramming”))	
)	
Consumer Information and Disclosure)	CG Docket No. 09-158
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170

REPLY COMMENTS OF BILLING CONCEPTS, INC.

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Billing Concepts, Inc., doing business as BSG Clearing Solutions (“BSG”), respectfully submits the following reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued in the above-referenced docket, in which the Commission seeks comment on measures to prevent cramming.

EXECUTIVE SUMMARY

In our initial comments, we described in detail the elaborate due diligence and performance monitoring procedures that BSG has implemented. These procedures have allowed BSG to reduce cramming complaints to extremely low levels. BSG recognizes, however, that some unscrupulous service providers continue to engage in cramming, and, accordingly, we support the Commission’s reasonable proposals to require similar procedures for third-party billing generally. In these reply comments, BSG focuses on the suggestion by some commenters that the Commission should impose a ban or opt-in requirement on third-party billing. Such a drastic response to a problem that is adequately addressed by less intrusive means lacks both factual and legal support.

As an initial matter, there is no basis in the record for the claim that cramming cannot be addressed through less intrusive means. BSG’s total cramming complaints are less than one-half of one-percent of all bills on which it places charges, and an even more miniscule percentage of the total number of charges that BSG places on such bills. When viewed in the context of BSG’s market share, this tiny fraction of cramming complaints is entirely inconsistent with the Commission’s estimate that 15 to 20 million U.S. households have been the victim of cramming by third-party service providers. BSG’s data also contravene several of the overarching conclusions of the Senate Commerce Committee Report (“Senate Report”) on which several comments relied. Contrary to this report, which is based upon anecdotal reports and a survey of

a narrow subset of third-party service providers, industry data demonstrates that cramming is far less prevalent than the report suggests. Rather, cramming rates are declining, and a wide variety of consumers and small businesses continue to value third-party services.

In particular, there is no evidence in the record that non-telecommunications services are more vulnerable to cramming – neither the NPRM nor the Senate Report present such data, and no commenter has introduced such data. Instead, recent enforcement actions by the Commission show that cramming occurs, albeit at extraordinarily low rates, in each category of third-party services. Furthermore, in these reply comments, BSG provides additional data showing that: (1) the small number of cramming complaints that do occur involve all types of third-party services, not just non-telecommunications services; and (2), across all categories of services that employ third-party billing, cramming can be adequately and effectively addressed through more reasonable and less intrusive means than a complete ban or opt-in requirement. In light of these facts, a ban or opt-in requirement would represent arbitrary and capricious action by the Commission.

Not only is there no factual basis for imposing a ban or opt-in requirement, but there is no legal basis either. First, a ban or opt-in requirement, as proposed in some of the comments, would violate the First Amendment. Commercial speech regulations must be no more extensive than necessary to serve a substantial governmental interest, whereas a ban or opt-in requirement, because it would capture millions of legitimate transactions, suffers from a significant overbreadth problem. Moreover, applying a ban or opt-in requirement only to non-telecommunications services would violate the Equal Protection Clause by unconstitutionally burdening the First Amendment rights of the providers of these services without sufficient

justification for the disparate treatment. In contrast, the more reasonable measures that make up the bulk of the NPRM do not suffer from this infirmity.

Finally, no commenter advocating a ban or opt-in requirement has shown that the Commission would have jurisdiction to impose such a rule. Because a ban or opt-in requirement would regulate the relationship between a LEC and a third-party service provider or billing aggregator, and not the relationship between a LEC and its customer, Title II jurisdiction is not available. Nor does Title I ancillary jurisdiction exist, as the Commission has not identified any statutorily mandated responsibility to which such a rule would be reasonably ancillary. Even assuming such a statutorily mandated responsibility could be identified, the Commission would still lack ancillary jurisdiction, as billing and collections services fall outside of the general grant of authority contained in Title I.

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For the reasons outlined in our initial comments, BSG continues to support the Commission's reasonable proposals to address cramming.¹ Indeed, many of these proposals mirror BSG's existing procedures. In these reply comments, BSG addresses those comments that advocate a ban or opt-in requirement for third-party billing, either for all third-party services or for non-telecommunications services. As described below, these procedures lack legal and factual support, and would represent a dramatic overreaction to a problem that can be adequately addressed through less intrusive means.

I. The factual record does not support the need for a ban or opt-in requirement on third-party billing.

In BSG's initial comments, we provided information regarding both the scope of the cramming problem and BSG's success in curbing cramming through rigorous due diligence and performance monitoring. A few comments, however, assert that the rules proposed in the NPRM are insufficient to address this problem and advocate a ban or opt-in requirement. None of these comments, however, presents any reliable data supporting such drastic action.

A. The evidence cited in support of a ban or opt-in requirement is flawed.

In the NPRM, the Commission properly recognized that "specific data and information . . . including a description of how that data or information was calculated or obtained and any supporting documentation or other evidence" is far superior to "vague or unsupported assertions regarding costs or benefits."² Supporters of a ban or opt-in requirement fail to provide any independent "specific data and information" justifying their proposed action. Rather, supporters either simply assert that there is a significant problem that can only be addressed by a ban or opt-in requirement, or they cite anecdotal or unreliable data as support.

¹ See Comments of Billing Concepts, Inc., at 7-9.

² NPRM ¶ 77.

Many of the commenters supporting such drastic action cite the Commission's "estimate" that 15 to 20 million households are victims of cramming by third-party service providers.³ This estimate is demonstrably false. As noted in our initial comments, BSG placed charges on the bills of approximately 8 million households in 2010. As the largest third-party billing aggregator, BSG's market share suggests that the *total* number of households receiving third-party charges is below the Commission's estimate of 15-20 million households victimized by cramming each year.⁴ In other words, for the Commission's estimate to be correct, virtually every third-party charge placed on a consumer's bill would have to be a cram. Given BSG's extremely low cramming complaint rates and the overwhelming amount of evidence of authorization and usage, the Commission's assertion is simply irreconcilable with industry data.

The Commission's explanation of the derivation of its estimate⁵ reveals numerous flaws that likely combined to create this figure. The explanation notes that, according to a survey, only one in twenty households was aware of unauthorized charges on their bills, and that in California, 120,000 households out of 12 million households complain of cramming each year. The explanation concludes, based on these two data points, that "at least 20 percent of wireline households in the U.S. experience cramming."⁶ Both data points are fundamentally flawed, however. First, the survey referenced in *FTC v. Inc21.com*,⁷ does not support the conclusion that only one in twenty consumers is aware of cramming. The survey interviewed customers several months after a temporary restraining order was issued, stopping Inc21.com from billing

³ See, e.g., Comment, Federal Trade Commission, at 2.

⁴ The comments submitted by AT&T similarly suggest that third-party billing rates in total do not reach the Commission's estimate of cramming prevalence. See Comment, AT&T, Inc., at 5 (noting only 8% of wireline bills contain third-party charges).

⁵ See NPRM ¶ 78 n.149

⁶ NPRM at n.149

⁷ 745 F. Supp. 2d 975 (N.D. Cal. 2010).

customers.⁸ As a result, the *majority* of those surveyed (57%) responded that they did not remember or were unsure whether they had been billed months prior for these services, and only 38% stated that they did not know they had been billed for the charges.⁹ Substituting this percentage, alone, would dramatically reduce the Commission's estimate. Second, the reliance on CPUC complaint numbers is misplaced. Because of the ambiguous wording of the California reporting requirement, the estimate of 120,000 cramming complaints is likely to be overstated. First, wireline providers and billing aggregators may be reporting cramming complaints from customers outside of California.¹⁰ Second, because billing aggregators are required to report total complaints, their reports will include complaints from wireless and VoIP customers as well as wireline customers. Finally, if one accepts the Commission's assumption that one percent of households file cramming complaints each year,¹¹ this means that 860,000 households of the total 86 million households in the United States, will file complaints this year. This number, however, exceeds by far BSG's total complaint numbers as well as the numbers of complaints filed with the Commission or the Federal Trade Commission ("FTC"). Furthermore, the Commission assumed that each complaint was, in fact, a true allegation of cramming, but the CPUC's April 5, 2011 Letter itself contains reasons why such an assumption would be flawed.¹² Because the Commission extrapolated the CPUC's inflated estimate of cramming complaints in

⁸ See Decl. of Howard Marylander, *FTC v. Inc21.com Corp.*, No. 10-cv-0022 (N.D. Cal. 2010), Dkt. No. 123-37, at 5 (noting that survey took place in April 2010).

⁹ *Id.* at 14.

¹⁰ Compare Cal. Pub. Util. Comm'n, General Order 168, part 4, § 11.3 (requiring wireline providers and billing aggregators to report "the total number of consumer complaints received each month") with *id.* § 11.1 (requiring wireless provider to report "refunds made to Subscribers with California area codes" (emphasis added)). If CPUC data involved nationwide reports, the Commission double-counted in multiplying that by the fraction of nationwide wireline households in California.

¹¹ See NPRM at n. 149.

¹² See Letter from Phillip Enis, Program Manager, California Public Utilities Commission, to Stephen Klitzman, Deputy Chief, Office of Intergovernmental Affairs, Consumer & Governmental Affairs Bureau, FCC, at 2 (April 5, 2011) (noting that "Some carriers have a liberal policy of refunding or cancelling telephone charges after they receive just one phone call challenging the charges").

California to a nationwide number, this error compounded the severe over-inflation inherent in the Commission's estimate.

Other commenters point to the Senate Commerce Committee's Report¹³ as support for their argument that a ban or opt-in requirement is necessary.¹⁴ The Senate Commerce Committee, however, did not seek public comment or data in creating its report, but instead relied on anecdotal data and a telephone survey that was limited to customers of only three third-party service providers (and their affiliates) that were the focus of the Senate Committee report.¹⁵ These three companies had all been accused of cramming.¹⁶ After identifying the companies, the Committee conducted a telephone survey of 500 customers of these companies and their affiliates, and based on the survey, concluded that "[n]ot one person said the charges were authorized."¹⁷ The sampling bias in this survey is obvious – querying customers of companies already accused of cramming would, of course, turn up more evidence of cramming. In contrast, the attached affidavits of customers of BSG's service providers show not only that customers have authorized third-party billing, but that they are quite satisfied with the services provided.¹⁸

More generally, these claims are entirely inconsistent with industry experience. BSG had over 24 million renderings in 2010 for AT&T and Verizon.¹⁹ Each month, these local exchange carriers ("LECs") report a total "cram count" to BSG, corresponding to the number of calls that

¹³ Senate Committee on Commerce, Science, and Transportation, "Unauthorized Charges on Telephone Bills" (July 12, 2011) ("Senate Report").

¹⁴ *See, e.g.*, Comments of the Massachusetts Office of the Attorney General at 5; Comments of Various Attorneys General at 9.

¹⁵ The Senate Report also cited and relied upon the FCC's estimate that 15 to 20 million households are the victims of cramming. As described above, industry data refutes this estimate.

¹⁶ *See* Senate Report at 21-30.

¹⁷ Senate Report at 29.

¹⁸ *See* Appendix.

¹⁹ A "rendering" is a monthly bill with at least one BSG-placed charge on it. For instance, a dial-around long distance customer who makes ten long distance calls in one month would have ten transactions, but one rendering for that month. Because most customers continue to use services month after month, the total number of unique households on which charges were placed is lower than the number of renderings or transactions.

the LECs received from customers alleging that they had been crammed. BSG then combines these numbers with inquiries received in its own call center, cramming complaints reported by its service providers, and cramming complaints reported to regulatory bodies. Even if all of these allegations were true, they still made up only 0.47% of all renderings, and 0.06% of all transactions BSG placed with these LECs in 2010. And, as shown below, BSG’s numbers for 2011 are even lower.

Table 1

	Cramming Complaints ²⁰	Transactions	Complaints per Transaction	Renderings	Complaints per Rendering
Jan. 2010 – Dec. 2010	113,828	181,519,762	0.0006	24,372,669	0.0047
Jan. 2011 – Sept. 2011	29,540	121,468,106	0.0002	14,526,546	0.0020
Estimated 2011 total ²¹	39,387	161,957,475	0.0002	19,368,728	0.0020

These miniscule rates of cramming *allegations* are entirely inconsistent with the Commission’s “unsupported assertion,”²² that 15 to 20 million households are the victims of cramming each year and with the Senate Commerce Committee’s claims regarding low authorization and usage rates.

Even these rates, however, are over-inclusive. The “cram count” that LECs report to BSG consists of all calls that include a customer’s *allegation* of being crammed. In the numerous instances where BSG’s service providers are able to provide indisputable evidence of authorization for the charge, the customer’s allegations nonetheless continue to be included.

²⁰ This includes complaints to LECs, complaints to regulatory agencies such as the Commission, complaints received in BSG’s own call-center, and complaints reported by BSG’s service providers.

²¹ These estimates assume that the complaint rate for the final three months of the year will remain the same as the average for the first nine months. However, monthly trends for cramming complaints, transactions, and renderings are generally downward, meaning this may result in overestimates.

²² NPRM ¶ 77.

Other estimates in the record inappropriately include allegations that do not represent cramming by third-party service providers. For instance, the NPRM cites a Commission enforcement action against Verizon regarding data charges placed on its own wireless customers' bills.²³ This discussion is entirely irrelevant to the question of cramming by third-party service providers, and, indeed, a ban or opt-in requirement would not have altered a carrier's ability to place such charges itself. Similarly, the NPRM states that the FTC "reported receiving over 7,000 complaints in 2010 related to unauthorized charges on telephone bills."²⁴ Those complaints regarding "unauthorized" charges,²⁵ are not limited to third-party cramming complaints, however, but also include other unauthorized charges, such as the Verizon data charges discussed above. Thus, while the FTC received 6,882 complaints for unauthorized charges to wireline phones in 2010 (a 14% drop over 2009), only an unknown fraction of these complaints were cramming complaints.²⁶ Finally, several commenters cite to historical incidents that pre-date the adoption of significant industry reforms that were targeted at reducing incidents of cramming. The Senate Commerce Committee Report, for instance, draws from a 1999 GAO report in support of the claim that service providers simply "lift[] names and numbers from telephone directories."²⁷ And, the comments of various state attorneys general repeatedly cite cases from 2007 and earlier,²⁸ long before BSG and others adopted strict new procedures. As

²³ See NPRM ¶ 20.

²⁴ NPRM ¶ 23 (citing Consumer Sentinel Network Data Book for January-December 2010, Appendix B3, at 80, March 2011, available at <http://ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2010.pdf>.)

²⁵ See NPRM ¶ 23.

²⁶ See Consumer Sentinel Network Data Book for January-December 2010, Appendix B3, at 80, March 2011, available at <http://ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2010.pdf>.

²⁷ See Report at 12. As BSG explained in its initial comments, under its current procedures, such limited data would be insufficient to allow a service provider to place charges on a customer's telephone bill. See Comment, Billing Concepts, Inc., at 5-6.

²⁸ See, e.g., Comment, Various Attorney Generals, at 5 n.4 (citing 2005 New York enforcement action); *id.* at 8 n.9 (describing Kansas 2007-2009 investigation); *id.* at 15 n.30 (collecting Florida enforcement actions from 2007).

shown below, these procedures, instituted in April 2010, resulted in a dramatic decrease in cramming complaints.

Table 2

	Cramming Complaints ²⁹	Transactions	Complaints per Transaction	Renderings	Complaints per Rendering
May 2009 – Apr. 2010	166,918	213,917,029	0.0008	31,093,720	0.0054
May 2010 – Apr. 2011	72,257	168,908,456	0.0004	21,439,278	0.0034 ³⁰

Given these data, the outdated examples provided in the NPRM and in various comments cannot support the claim that cramming remains a sufficiently large problem to justify such drastic Commission action.

B. There is no evidence to support treating non-telecommunications services differently from telecommunications services.

A few commenters suggest that the Commission should impose a ban or opt-in requirement solely on third-party billing for non-telecommunications services.³¹ As we explained in our initial comments, non-telecommunications services offered by third-party service providers provide significant benefits to a variety of consumers, and, in particular, to residential consumers and small businesses.³² The NPRM did not discuss the possibility that it might ban third-party billing for only non-telecommunications services. To the extent the Commission is now considering such action, however, BSG strongly opposes treating non-telecommunications services differently from other third-party services given the lack of support in this proceeding for such an outcome.

²⁹ This includes complaints to LECs, complaints to regulatory agencies such as the Commission, complaints received in BSG's own call-center, and complaints reported by BSG's service providers.

³⁰ Complaints per rendering continue to trend downward. For instance, the average from May 2010 to Sept. 2011 was 0.0029 complaints per rendering.

³¹ See, e.g., Comment, Federal Trade Commission, at 6 & n.19; Comment, Minnesota Attorney General Lori Swanson, at 9.

³² See Comment, Billing Concepts, Inc. at 2-3.

First, there is no factual basis for imposing greater restrictions on non-telecommunications services offered by third parties. The NPRM contains no evidence to support the conclusion that cramming is a more significant problem for non-telecommunications services, and none of the commenters supporting the singling out of non-telecommunications services provides any evidence or data that would justify differential treatment. Instead, existing data suggest that, to the extent cramming remains a problem, it occurs in all categories of third-party services. For instance, the NPRM itself cites several recent Commission enforcement actions against dial-around long-distance providers accused of cramming.³³

BSG's own data similarly demonstrate that non-telecommunications services should not be treated differently. When AT&T and Verizon report cramming data to BSG on a monthly basis, BSG is generally able to separate the data based on the type of service provided. For September 2011 (the most recent month for which data is available), cramming allegations against long-distance providers made up the majority of all such allegations received by BSG. In contrast, non-telecommunications services were less than forty percent of cramming allegations. These percentages are consistent with data throughout 2011, as shown below.

Table 3

	Long-distance	Operator services	Non-telecommunications ³⁴
Jan. 2011 – Sept. 2011	13,024	5,120	11,396
Sept. 2011 only	1,128	80	732

³³ See NPRM ¶ 21.

³⁴ The legacy tracking systems of ACI Billing Services, Inc., an entity acquired by one of the BSG predecessor companies, did not separate service providers by product type (i.e., long-distance, operator services, and non-telecommunications). In order to avoid under-estimating the number of non-telecommunications cramming complaints, we have included *all* complaints for this group of service providers in the non-telecommunications category. As a result, the estimated number of non-telecommunications cramming complaints is overstated.

As discussed above, these complaint numbers represent extremely small percentages of BSG's total renderings or transactions in any category. In light of this data, the Commission lacks an evidentiary basis to treat non-telecommunications services differently.

C. Reliable data demonstrates that cramming can be addressed through less drastic means, such as strict due diligence and performance monitoring.

As discussed in our initial comments, BSG has instituted industry-leading due diligence requirements and performance monitoring for all of its service providers, which are aimed at identifying and proactively stopping cramming. These procedures include background checks for new clients and additional verification measures for online purchases.³⁵ In particular, BSG now employs a 100-point checklist for new service providers, and demands that service providers supply private data, such as the last four digits of the purchaser's social security number, for online purchases. By implementing these procedures, BSG was able to cut its cramming complaints by more than half, as shown in Table 2. As a result, in September 2011, cramming allegations corresponded to only 0.14% of BSG's renderings and 0.01% of transactions. For this reason, reliance on older reports on the incidence of cramming³⁶ is misplaced as BSG's data show that less drastic measures have been effective in significantly reducing the incidence of cramming.

BSG's data are consistent with other publicly available information, showing significant drops in cramming complaints since BSG, other billing aggregators, and LECs adopted new and more stringent procedures. The NPRM also suggests that Illinois cramming complaints peaked in 2008.³⁷ In addition, other third-party billing aggregators have noted a similar trend.³⁸ These

³⁵ See Comment, Billing Concepts, Inc., at 4-6.

³⁶ See, e.g., Senate Report at 13-14 (quoting from 2008 and 2009 consumer complaints).

³⁷ See NPRM ¶ 31.

³⁸ See Comment, PaymentOne, at 15 (noting a 26% decline in Q2 cram rates since 2009).

data all lead to the conclusion that a ban or opt-in requirement would exceed the steps necessary to continue these trends.

The comments of the California Public Utilities Commission (“CPUC”) further support this conclusion. California has adopted many of the reasonable proposals contained in the NPRM, such as requiring bills to contain CPUC contact numbers and a clear and concise description of the charges, but has not adopted a ban or opt-in requirement. Based on the CPUC’s experiences under such a system, the CPUC recommends only that these less draconian and more reasonable measures be adopted. The CPUC comments do not recommend a ban or opt-in requirement.³⁹

The comments of the CPUC are echoed by the reply comments of several state attorneys general, all of which recommend that the Commission stop short of imposing a ban or opt-in requirement. Again, these attorneys general agree that cramming can be addressed through other measures such as due diligence requirements and increased consumer education. The Commission should follow the reasoned positions adopted by these state officials.

The National Association of Regulatory Utility Commissions has advocated a similar position. Its November 16, 2011 resolution supports the Commission’s narrowly tailored approaches, such as offering bill-blocking and bill disclosures, while not endorsing a ban or opt-in requirement.⁴⁰

In short, data from BSG and the industry more generally demonstrate that cramming complaints remain low and, particularly since the adoption of new safeguards, are continuing to

³⁹ See Comment, California Public Utilities Commission, at 17 (“[T]he FCC’s primary focus in combating cramming should be empowering the consumer . . .”).

⁴⁰ See Nat’l Ass’n of Regulatory Util. Commissioners, *Resolutions*, at 9-11 (“Resolution Urging the Federal Communications Commission to protect All Voice Service Consumers from Cramming Billing Practices”) (Nov. 16, 2011).

fall.⁴¹ A ban or opt-in requirement for third-party services would thus reflect an overly broad reaction to a problem being addressed by more-tailored reforms.

II. Imposing a ban or opt-in requirement on third-party billing would be arbitrary and capricious.

If the Commission were to impose a ban or opt-in requirement based on this record, such action would be arbitrary and capricious, in violation of the Administrative Procedures Act. The Commission has an obligation to “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choices made.”⁴² Where an agency’s explanation for its decision “runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise,” a court will strike down the agency action.⁴³

The record in this case does not permit the Commission to conclude that a ban or opt-in requirement is the appropriate response to the perceived problem of third-party cramming. As outlined above, supporters of a ban or opt-in requirement rely solely on anecdotal and biased reports to conclude that cramming remains a problem that cannot be solved through more measured means. Moreover, BSG’s own successes in driving cramming complaints down to small fractions of one percent of all renderings and even lower percentages of transactions refute these claims. The “evidence before the agency,” therefore, permits only the conclusion that these more limited responses are appropriate. Any conclusion that a ban or opt-in requirement is necessary would be “so implausible” as to render it arbitrary and capricious agency action.

⁴¹ See also Comment, PaymentOne, at 8-9 (noting cramming rates of below 1%).

⁴² *Business Roundtable v. S.E.C.*, 647 F.3d 1144, 1148 (D.C. Cir. 2011) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

⁴³ *Motor Vehicle Mfrs.*, 463 U.S. at 43.

Any attempt by the Commission to limit a ban or opt-in requirement to non-telecommunications services would, if anything, raise even greater problems. “Where an agency applies different standards to similarly situated entities and fails to support this disparate treatment with a reasoned explanation and substantial evidence in the record, its action is arbitrary and capricious”⁴⁴ The factual record before the agency does not support the conclusion that non-telecommunications services are more prone to problems with cramming. Instead, BSG’s own data⁴⁵ demonstrate that cramming complaints for non-telecommunications services remain a minority of the already small number of cramming complaints received for all services. Thus, the record is devoid of evidence that would permit the Commission to find facts justifying differential treatment between the various types of services that use third-party billing, all of which provide value to consumers with only a small percentage of cramming complaints.

III. A ban on third-party billing would violate the First Amendment.

As BSG noted in its comments,⁴⁶ a ban on any portion of third-party billing would infringe the First Amendment rights of both BSG and LECs. Under *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*,⁴⁷ commercial speech regulations must meet a strict test to avoid falling afoul of the First Amendment. This test asks “whether the State’s interests in proscribing it are substantial, whether the challenged regulation advances these interests in a direct and material way, and whether the extent of the restriction on protected speech is in reasonable proportion to the interests served.”⁴⁸ The Commission cannot avoid these requirements by claiming that cramming is misleading speech, because “where, as with the

⁴⁴ *Burlington Northern & Santa Fe Railway Co. v. Surface Transp. Bd.*, 403 F.3d 771, 777 (D.C. Cir. 2005) (granting petition for review due to insufficient justification for treating shippers and carriers differently).

⁴⁵ See *supra* Table 3.

⁴⁶ Comment, Billing Concepts, Inc., at 11-12.

⁴⁷ 447 U.S. 557 (1980).

⁴⁸ *Edenfield v. Fane*, 507 U.S. 761, 768 (1993).

blanket ban involved here, truthful and nonmisleading expression will be snared along with fraudulent or deceptive commercial speech, the State must satisfy the remainder of the *Central Hudson* test by demonstrating that its restriction serves a substantial state interest and is designed in a reasonable way to accomplish that end.”⁴⁹

Even assuming that the Commission could satisfy the first requirement by identifying a substantial interest supporting a ban, the Commission cannot satisfy either of the final two *Central Hudson* requirements. First, the record is devoid of evidence that a ban on third-party billing would directly advance that interest. As a prerequisite to such a showing, “a governmental body seeking to sustain a restriction on commercial speech must demonstrate that the harms it recites are real.”⁵⁰ The tiny fraction of all transactions and renderings that result in cramming complaints casts doubt on whether the Commission could make such a showing. More importantly, however, a ban on third-party billing would not alleviate all of the problems identified in the NPRM. As noted above, the NPRM cites as support for evidence of a problem an incident where a non-third party service provider placed charges on its own customer’s bills.⁵¹ A ban on third-party billing would not prevent this from recurring, and thus the Commission’s possible solution fails to advance any asserted governmental interest “in a direct and material way.”

More fundamentally, banning third-party billing entirely is fatally over-inclusive. The final *Central Hudson* prong demands that commercial speech regulations not be “more extensive than necessary to serve” the asserted governmental interest.⁵² Here, however, a ban would

⁴⁹ *Id.* at 768-69.

⁵⁰ *Id.* at 771.

⁵¹ See NPRM at ¶ 20.

⁵² See *Central Hudson*, 447 U.S. at 566.

capture millions of legitimate transactions, rendering it unconstitutional.⁵³ “[T]he free flow of commercial information is valuable enough to justify imposing on would-be regulators the costs of distinguishing . . . the harmless from the harmful.”⁵⁴ A ban fails to make this distinction.

This argument applies with equal force to an opt-in requirement for third-party billing. An opt-in requirement for third-party billing would be unconstitutional for the same reasons the Tenth Circuit found an opt-in requirement for the use of customer proprietary network information (“CPNI”) to be unconstitutional.⁵⁵ In *U.S. West*, the Tenth Circuit first rejected the Commission’s claim that its regulations did not restrict speech, thereby triggering the *Central Hudson* test described above.⁵⁶ The court further found that the Commission’s opt-in requirement for use of CPNI failed the third and fourth prongs of this test. First, the Commission’s claims of threats to privacy and competition were speculative, and, therefore, the opt-in requirement could not satisfy the threshold requirement of showing that the harm cited is real.⁵⁷ Moreover, the opt-in requirement was not narrowly tailored, because the Commission failed “to adequately consider an obvious and substantially less restrictive alternative, an opt-out strategy.”⁵⁸

The comments supporting an opt-in requirement for third-party billing suffer from the same shortcomings. The Commission’s estimate about the scope of the problem of cramming is both speculative and demonstrably false, as shown above.⁵⁹ Nor would an opt-in requirement satisfy *Central Hudson*’s third requirement that the restriction be “no more extensive than

⁵³ See *BellSouth Telecommunications, Inc. v. Farris*, 542 F.3d 499 (6th Cir. 2008); *Bloom v. O’Brien*, 841 F. Supp. 277 (D. Minn. 1993).

⁵⁴ See *Board of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 479 (1999) (internal quotation marks omitted).

⁵⁵ See *U.S. West v. F.C.C.*, 182 F.3d 1224 (10th Cir. 1999); see also *Verizon Northwest, Inc. v. Showalter*, 282 F. Supp. 2d 1187 (W.D. Wash. 2003).

⁵⁶ *U.S. West*, 182 F.3d at 1232.

⁵⁷ *Id.* at 1237-38.

⁵⁸ *Id.* at 1238.

⁵⁹ See *supra*, Section I.

necessary to further the State's interest,"⁶⁰ given BSG's proven success with the less restrictive alternative of strict due diligence and performance monitoring requirements. The Commission should therefore adopt less burdensome approaches, such as requiring LECs to offer bill-blocking upon request, rather than unconstitutionally trampling on the First Amendment rights of billing aggregators, third-party service providers, and LECs.

IV. Imposing a ban or opt-in requirement only on non-telecommunications services would violate the Equal Protection Clause.

Imposing a ban or opt-in requirement on only non-telecommunications services, but not telecommunications services, as some commenters suggest, would violate the Equal Protection Clause of the Fourteenth Amendment for two separate reasons. First, the overbreadth of such a requirement, capturing millions of legitimate transactions, is fatal, because "[t]he Equal Protection Clause requires that statutes affecting First Amendment interests be narrowly tailored to their legitimate objectives."⁶¹ Second, the Commission lacks a sufficient evidentiary basis for treating non-telecommunications services differently.⁶²

Absent "sufficient regulatory interests justifying selective exclusions or distinctions among" types of third-party billing, a ban on only non-telecommunications services violates the Equal Protection Clause.⁶³ Not only is there an insufficient basis to conclude that a ban or opt-in requirement is appropriate for third-party billing generally, the evidentiary record relating to non-telecommunications services in particular is entirely absent. Without such a record, it would violate the Equal Protection Clause to treat these third-party services disparately from telecommunications services where cramming also occurs. The proposed ban on only non-

⁶⁰ *Central Hudson*, 447 U.S. at 569-70.

⁶¹ *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 101 (1972) (striking down ordinance that banned picketing on some topics, but not others).

⁶² See *supra* Section I.B.

⁶³ *Mosley*, 408 U.S. at 98.

telecommunications services closely mirrors the City of Chicago’s unconstitutional attempt to ban picketing only when it related to non-labor activities. The City attempted to justify the ban on non-labor picketing because it was “more prone to produce violence than labor picketing,” but the Court in *Mosley*, rejecting this argument, held that these “predictions . . . involve judgments appropriately made on an individual basis, not by means of broad classifications, especially those based on subject matter.”⁶⁴ Any ban or opt-in requirement targeted solely at non-telecommunications services would be similarly overbroad, particularly in light of the large number of legitimate, authorized services that consumers regularly authorize, and the fact that cramming occurs (in small numbers) in connection with both telecommunications and non-telecommunications services.

V. The Commission lacks jurisdiction to ban third-party billing.

The Commission, in the NPRM, makes a general assertion that it believes the agency has jurisdiction under Section 201(b) of the Communications Act to adopt regulations to curb cramming. However, the Commission fails to address specifically whether or how it would have jurisdiction to impose a ban or opt-in requirement on third-party billing. The vast majority of comments supporting a ban or opt-in requirement similarly fail to address the issue.⁶⁵ While the Commission generally recounts that it believes it “ha[s] authority under Section 201(b) to adopt these rules,” for the reasons described below, any Commission jurisdiction to implement its Truth-in-Billing rules or other bill-formatting and disclosure rules does not extend to imposing a ban or opt-in requirement on third-party billing.

⁶⁴ *Id.* at 100-01.

⁶⁵ The NECPUC comments do have a short comment, asserting without explanation that the Commission does have jurisdiction, and also urging the Commission to consider possible jurisdiction under its numbering authority. *See* Comment, NECPUC, at 23-24.

A. The Commission lacks authority under Title II to regulate third-party billing directly.

The Commission's Title II jurisdiction depends on whether the Commission is regulating a LEC's relationship with the LEC's telecommunications customers or the LEC's relationship with its third-party billing customers. In the case of the former, Title II jurisdiction may exist, for the reasons outlined in the Truth-in-Billing Orders.⁶⁶ In contrast, a LEC's relationship with third-party billing services and aggregators falls outside of the Commission's Title II jurisdiction.⁶⁷ This distinction is critical to evaluating whether the Commission has jurisdiction to implement any particular aspect of the NPRM, including the proposals for a ban or opt-in requirement.

In the Commission's *First Truth-in-Billing Order*,⁶⁸ the Commission, in explaining the scope of its asserted jurisdiction, focused on the relationship between a telecommunications provider and its customer. The Commission noted that:

[T]he telephone bill is an integral part of the relationship between a carrier and its customer. As such, ***the manner in which charges and providers are identified*** on the telephone bill is essential to consumer's understanding of the services that have been rendered, the charges imposed for those services, and the entities that have provided such services.⁶⁹

Similarly, with respect to Section 258, the Commission asserted jurisdiction "to the extent that our regulations serve as a means of verifying carrier charges."⁷⁰ In contrast, the Commission stopped short of claiming jurisdiction over a carrier's relationship with third-party billing

⁶⁶ See NPRM ¶ 83 (noting that "the telephone bill is an integral part of the relationship between a carrier and its customer").

⁶⁷ See *In re Detariffing of Billing and Collection Services*, 102 F.C.C.2d 1150 (1986) ("1986 Detariffing Order") at ¶ 31 ("Although carrier billing and collection for a communication service that it offers . . . is an incidental part of a communication service, . . . carrier billing or collection for the offering of another unaffiliated carrier is not a communication service for purposes of Title II of the Communications Act.").

⁶⁸ 14 F.C.C.R. 7492 (1999).

⁶⁹ 14 F.C.C.R. at 7503, ¶ 20 (emphasis added).

⁷⁰ *Id.* at 7504, ¶ 22.

services and aggregators, noting that “[t]he guidelines adopted here apply to the carrier providing the service to customers, not to those carriers’ billing agents.”⁷¹

Further, in its 1986 *Detariffing Order*, the Commission concluded that “carrier billing or collection for the offering of another unaffiliated carrier is not a communication service for purposes of Title II of the Communications Act.”⁷² Indeed, the Commission reaffirmed this conclusion in the *First Truth-in-Billing Order*, when it distinguished between “a carrier’s billing and collection for its own service, as opposed to billing services provided to other carriers.”⁷³

These precedents make clear the limits of the Commission’s Title II jurisdiction. When the Commission is regulating a carrier’s relationship with its customers, such as when it issues rules regarding point-of-sale disclosures or bill formatting, the Commission has properly asserted its authority under Title II the Communications Act. However, by imposing a ban, the Commission would no longer be regulating the “integral part of the relationship between a carrier and its customer,” but would instead be regulating the terms on which a LEC and a third-party billing aggregator or third-party service provider (which may not be a carrier) may do business, even though, contrary to the 1986 *Detariffing Order*’s conclusion, “billing and collection services provided by local exchange carriers are not subject to regulation under Title II of the Act.” Thus, while BSG does not dispute the Commission’s jurisdiction to issue disclosure and billing format regulations governing the relationship between a LEC and its customers, it is clear that the Commission lacks Title II authority to implement a ban or opt-in requirement for third-party billing.

⁷¹ *Id.* at 7506, ¶ 25.

⁷² 1986 *Detariffing Order*, 102 F.C.C.2d 1150, at ¶ 31 (1986); *see also Chladek v. Verizon N.Y., Inc.*, 96 Fed. App’x 19, 22 (2d Cir. 2004) (“[T]he FCC has determined that billing and collection services are not ‘telecommunications services’ as defined by Title II of the Communications Act.”); *Brittan Commc’ns Intern. Corp. v. Southwestern Bell Telephone Co.*, 313 F.3d 899, 905 (5th Cir. 2002) (“[B]illing and collection services provided by local exchange carriers are not subject to regulation under Title II of the Act.” (internal quotation marks omitted)).

⁷³ 14 F.C.C.R. at 7507, ¶ 25.

B. The Commission cannot rely on its ancillary jurisdiction under Title I.

The NPRM seeks comment on whether it needs to “invoke its Title I authority” to address cramming, and notes that the Commission “may exercise its ancillary jurisdiction only when two conditions are satisfied: (1) the Commission’s general jurisdiction grant under Title I [of the Communications Act] covers the regulated subject and (2) the regulations are reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities.”⁷⁴

As to the first prong, Title I gives the Commission general jurisdiction over “interstate and foreign communications by wire or radio.”⁷⁵ But, as the Commission held in 1986, a billing and collection service “does not employ wire or radio facilities and does not allow customers of the service . . . to ‘communicate or transmit intelligence of their own design and choosing.’” Rather, it is “a financial and administrative service.”⁷⁶ In this respect, services employing third-party billing closely parallel the devices in question in *America Library Association v. F.C.C.*⁷⁷ In that case, the court of the appeals faced the question of whether the Commission had ancillary jurisdiction when it required that digital television receivers recognize the broadcast flag.⁷⁸ The court concluded that the “Commission’s general jurisdictional grant under Title I” did not authorize the regulation of “devices that receive communications after those communications have occurred.”⁷⁹ Just as these devices fell outside the Commission’s jurisdiction when they ceased receiving signals, the billing services in question fall outside the Commission’s

⁷⁴ NPRM at ¶ 85 (quoting *Comcast Corp. v. FCC*, 600 F.3d 642, 646 (D.C. Cir. 2010).

⁷⁵ 47 U.S.C. § 152(a).

⁷⁶ 1986 Detariffing Order, 102 F.C.C.2d 1150 at ¶ 32.

⁷⁷ 406 F.3d 689 (D.C. Cir. 2005).

⁷⁸ *Id.* at 691.

⁷⁹ *Id.* at 692, 703.

jurisdiction because they involve “a financial and administrative service.”⁸⁰ Thus, Title I’s general jurisdictional grant does not cover billing and collection services and would not permit the Commission to impose a ban or opt-in requirement.

As to the second prong, the Commission has not identified a single statutorily mandated responsibility under Title II to which its regulations would be “reasonably ancillary.” As a result, the Commission lacks ancillary jurisdiction to implement a ban or opt-in requirement for third-party billing.

Respectfully submitted on December 5, 2011.

s/Kelli Petronis Cubeta

Kelli Petronis Cubeta

⁸⁰ *See id.* at 700 (“The insurmountable hurdle facing the FCC in this case is that the agency’s general jurisdictional grant does not encompass the regulation of consumer electronics products that can be used for receipt of wire or radio communication when those devices are not engaged in the process of radio or wire transmission.”).

APPENDIX

Mecca Property Development
Corporate Office

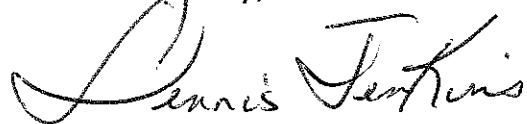
71 South Orange Ave, #148
South Orange, NJ 07079
Phone: 888-383-1730
973-732-3996

November 30, 2011

To: Localbizusa

I have been a customer of Localbizusa.com since February 2010. When Localbiz contacted me at my place of business with an offer of providing me with a 14 day trial for a website that would advertize my business on the web, I decided to give it a try. I was so pleased with the website and the customer service; we opted to continue with the service after the trial offer was over. The best part of the offer was that the charge for the service would be conveniently billed on our local telephone bill. Thus eliminating the hassle of writing a check every month or having the charge automatically billed to my credit card. This has proven to be a very successful method of payment that made it much easier for our accounting department. But recently we have switched over to credit card payment because we were made aware of some changes that may eliminate the ability to bill through our phone bill and we did not want to chance losing our service with Localbiz.com as the website that they provide has been a great asset to our business.

Sincerely,

A handwritten signature in black ink that reads "Dennis Jenkins". The signature is fluid and cursive, with the first name "Dennis" being larger and more prominent than the last name "Jenkins".

Dennis Jenkins, Owner

Mecca Property Development



SABRHEN FARM

November 30, 2011

To: Bizzlinks.com,

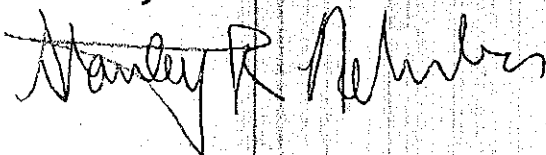
ATT.: Larry

Dear Larry,

Thank you for giving our business an opportunity to promote our services on the internet. We have been a customer for awhile now and have been happy with the website service. When we were first called we were being billed through our phone company, which was convenient, but have transferred to credit card payment so as to ensure continued service. Regardless it is a pleasure doing business with your company.

Thanks

Stanley Nehrbas



Dear Sir,

I am very glad to have all of my telephone charges on one bill again. When I had separate bills it could be confusing. Being able to have one bill for two companies has been very helpful.

Sincerely,
Margaret Humble
586-412-1534

Dear Sir,

We want you to know that we are very pleased with the quality of service your company provides.

We have always been able to rely on our long distance on our local phone bill at a very reasonable cost.

Your customer service has consistently made extra efforts for any questions or concerns that we may have had come-up.

We have recommended your company to others because of our satisfaction with your service and ease of billing. We look forward to doing business with you for years to come.

Mr. Jeff Lowe
5655 Golf of Mexico Dr.
Long Boat Key, Florida
34228

#941-383-1410

UWC

Union Worker Communications



P.O. Box 11

Ada, MI 49301

Phone: 616-956-5101

Fax: 616-956-5104

June 17, 2011

LDCB

20 W. Washington St. Ste 6A

Grand Rapids, Michigan 48346

Dear Sir,

I wanted to take the time to say thank you and tell you what a great job your company has done.

We appreciate being billed for our long distance calls on the local phone bill. No extra check needed. No long-term contract, no payment in advance or deposit and no automatic renewal date. We simply pick up the phone and make our calls.

Whenever I have called your customer service department they answered immediately! No annoying interactive response or voicemail systems to navigate. That is becoming a very rare experience! Your customer service representatives really do understand long distance calling.

I wanted to take the time to say thanks and keep up the good work!

Regards,

Joe Buss

Office Manager

UWC

6119 28th St.

Grand Rapids, Michigan 49546

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my business tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small service providers that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

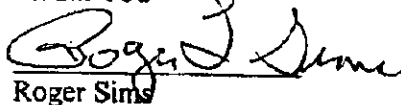
I agree that there are bad actors out there and that we need to protect consumers from "cramming," but banning third-party billing will hurt my business, reduce our options and raise the price of our bills. Currently:

- Leaders in third-party billing go out of their way to educate consumers. Some of them have even started a website www.knowyourphonebill.org to educate consumers.
- Millions of American businesses like mine use third-party billing services to have charges billed to their landline phone bills. Some use two or more.
- The number of cramming complaints the FCC receives each year represent a very small percentage of consumers who use and value the services they receive.
- Preferred Long Distance, Inc. was very helpful in covering my early termination fees that I received from AT&T so that I could switch phone carriers without any penalties.

This is why I strongly feel third party billing is important and stimulates competition. We enjoy having a choice of service providers and would not have this opportunity without third party billing.

I hope you think about the impact that any new rules will have on consumers like me.

Thank You



Roger Sims
RGS Enterprises Inc.
Account #P17366

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my business tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small service providers that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You



Chris Darring
Global Parking System Inc.
Account# P174277

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my business tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small service providers that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

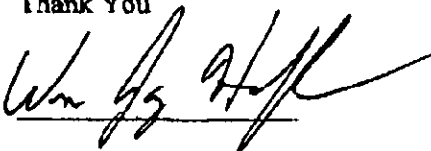
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Thank You



William Hoffman
O'Steen's Italian Food & Deli
Account# P178363

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

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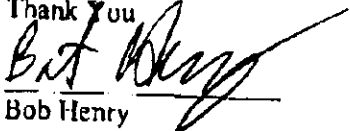
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Thank You



Bob Henry
Helken Equipment
Account #P176576

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Crysta Feng
Georgetown, TX

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Sarah Banks
North Hollywood, CA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Penelope Douglas
Plymouth, MA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Sidd Morisson
Santa Ana, CA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Makenna Swopes
Gresham, OR

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Julio Monzon
Los Angeles, CA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Adam Camarillo
Corpus Christi, TX

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Dan Ingle
Bakersfield, CA

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Bruce Leinbach
West Covina, CA

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Chrissaliba Saliba
San Francisco, CA

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Thank You,

Antonio Caro
Yorktown Heights, NY

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Sara Villarreal
Eagle Lake, FL

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Bob Newhart
Hawthorne, CA

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Thank You,

Kristine Whitbey
Bakersfield, CA

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Thank You,

Ashley Ferguson
Ashland, VA

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Thank You,

Carl Childers
Manteca, CA

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Thank You,

Cynthia Schmitt
Norman, OK

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Jenny Miller
Lodi, CA

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Thank You,

Thomas Tran
San Luis Obispo, CA

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Holden Madison
Qulin, MO

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Thank You,

Dale Alexander
Cleveland, OH

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Melissa Rogers
Richmond Hill, NY

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Keira McNutt
Sumter, SC

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Michael Barbiero
Oldtappan, NJ

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Danielle Mohar
Uniontown, PA

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Mike Hunt
Philadelphia, PA

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Igda Warner
Arlington, VA

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Chris Carusos
Mahopac, NY

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Brandi Rees
Kokomo, IN

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Thank You,

Eden Laurin
Chicago, IL

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

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Charlie Troxell
Midland, TX

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Loricrawford Crawford
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Jennifer Brewer
Shelburne Fls, MA

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Thank You,

Sharon Lambert
Robbins, NC

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Thank You,

Carolyn Verrett
Applevalley, CA

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Thank You,

Bob Marshall
Chatham, VA

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Mike Smith
Beverly Hills, CA

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Thank You,

Bill Frizee
North Hollywood, CA

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Thank You,

Marvin Moore
Rochester, MI

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Louis Pizsap
Allendale, NJ

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Angelica Plascencia
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Braen Sauls
Wilson, NC

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Thank You,

John Donahue
Wintersprings, FL

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Jad Farah
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Diane Smith
Hopewell, VA

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Brandon Legg
Moscow, PA

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Tausha Cowan
Topeka, KS

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Thank You,

Duncan Watson
Bakersfield, CA

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Norma Cole
Clarion, PA

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Bob Smith
Columbus, OH

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Justin Hischke
Chicago, IL

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Nancy Webber
Meadow Vista, CA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Anita Hill
Plymouth, MI

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Thank You,

Dolly Ruiz
Santa Rosa, TX

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Thank You,

Rinku Shah
Flushing, NY

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Thank You,

Mike Segovia
Oxnard, CA

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David Ship
Joplin, MO

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Thank You,

John Greer
Virginia Beach, VA

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Thank You,

Toni Alicante
Laguna Niguel, CA

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Thank You,

Mackenzie Jacobs
Quincy, IL

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Thank You,

Sarah Walsh
Woodstock, MD

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Thank You,

Rita Corey
Frederick, MD

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Jackie Barden
Canton, MI

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Ann Bass
Poway, CA

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Rick Mcquire
Hot Springs National Park, AR

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Elizabeth Nordberg
Cambridge, MA

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Karen Sielski
Lorton, VA

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Pepito Miller
Tyler, TX

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Nick Detrt
Seaside Heights, NJ

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Thank You,

Irene Camacho
Port Isabel, TX

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Amber Craft
Los Angeles, CA

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Stacy Moon
Oroville, CA

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Gini Luster
Crescent City, CA

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Kina Herbert
Salinas, CA

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Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Simon Cotswalder
New York, NY

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Michelle Dhan
Flushing, NY

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Thank You,

Bob Norris
West Orange, NJ

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Jaymez Nunya
Albany, NY

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Ulrike Dietze
Dallas, TX

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Steven Chambers
Marion, IN

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Ruben Resendiz
Turlock, CA

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Jennifer Fowler
Modesto, CA

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Thank You,

Christina Clark
Kansas City, MO

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Thank You,

Bo Taylor
Bakersfield, CA

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Thank You,

Ashley Clements
Hollister, CA

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Mitch Perales
Del Valle, TX

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Galen Lazorith
Altamonte Springs, FL

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Thank You,

Lisa Flores
Euless, TX

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Welcome Halliman
Fresno, CA

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Glenn Herman
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George Elliott
Washington, DC

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Dave Into
Ontario, CA

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Chad Williams
Abilene, TX

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Stephanie Telfer
Conway, AR

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Asia Green
Windsor Mill, MD

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Thank You,

Keria Koch
New York, NY

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Thank You,

Jon Kant
Ambler, PA

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Thank You,

Milton Hurley
Los Angeles, CA

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Thank You,

Jamey Johnson
Lusby, MD

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Thank You,

Norma Salazar
Delano, CA

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Margaret Orama
Manassas, VA

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Thank You,

Tammy Ingle
Ukiah, CA

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Thank You,

Chris Burnette
Vestal, NY

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Bob Weainer
Warrington, PA

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Theda Miller
Great Bend, KS

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Hoboken, NJ

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Jim Mckinnin
Stoneham, MA

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Jeanne Pou-Aldrich
San Antonio, TX

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Tara Gardner
Severna Park, MD

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Rick Hooper
Redmond, WA

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Maureen Wynter
Brooklyn, NY

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Todd Bauman
Northfield, IL

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Paul Peters
Las Vegas, NV

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Alex Bass
Burleson, TX

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Anthony Muir
Cumberland, MD

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Craig Frey
Solon, OH

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Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Marty Bender
Austin, TX

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Thank You,

Eric Duffy
Bothell, WA

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Thank You,

Megan Lynch
Springfield, IL

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Thank You,

Everlina Williams
Durham, NC

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Stinger Crow
Anaheim, CA

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Thank You,

Sharon Salazar
Plano, TX

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Chris Jackson
Breinigsville, PA

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Thank You,

John Allen
Schenectady, NY

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Thank You,

Clint Hart
Woodward, OK

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Thank You,

Demetrich Brown
San Jose, CA

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Thank You,

John Cook
Elmhurst, NY

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Thank You,

Eileen Sadlier
Brooklyn, NY

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Thank You,

Arthur Carota
Wilmington, DE

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Linda Battersby
Wyandotte, MI

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Thank You,

John Connery
Chicago, IL

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Jhon Spancer
Sag Harbor, NY

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David Harrison
Chicago, MI

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Margaret Carew
Chicago, IL

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Katrina Heinrich
Rancho Mirage, CA

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Bartholomew Cubbins
Hyattsville, MD

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Aria Kim
Arlington, TX

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Georgia Johnson
Lehigh Acres, FL

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Thank You,

Zina Wong
New York, NY

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Shelby Beale
Windsor, VA

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Thank You,

Angie Little
Temple Hills, MD

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Jay Weidner
Pullman, WA

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Thank You,

Kym Campbell
Bakersfield, CA

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Chairman
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Jerome Kitson
Ny, NY

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Thank You,

Ted Gulliani
Los Angeles, CA

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Thank You,

Max Newson
Vista, CA

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Chairman
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Thank You,

Andrea Neptune
Orangevale, CA

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Thank You,

Shannon Wright
Odenton, MD

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Robert Marquez
Los Angeles, CA

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Prethi Mala
Sunnyvale, CA

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Nedra Millner
Washington, DC

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Joan Thiery
Shamokin, PA

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Mark Heckman
San Bruno, CA

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Thank You,

Eugene Vecxco
Bronx, NY

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Marjorie Williams
Bronx, NY

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Thank You,

Patricia Bangos
Anaheim, CA

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Thank You,

Melanie Holloway
Hughson, CA

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Thank You,

Troy Sims
Liberty Hill, TX

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Naomi Marie
Oxnard, CA

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Washington, DC 20554

Dear Chairman Genachowski:

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Barbara Jones
Warren, AR

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

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Laronda Mitchell
Youngstown, OH

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Alyssa Childress
Elmhurst, IL

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Bernarda Velez
Statenisland, NY

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Josh Williams
Vacaville, CA

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Kari Powell
Jonesboro, IN

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Thank You,

Jason Johnson
Long Branch, NJ

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Toby Keith
Boca Raton, FL

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Therese Fitzpatrick
Fortmyers, FL

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Thank You,

Kelly Zent
Columbus, OH

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Thank You,

Pamelia Vanwinkle
Alvarado, TX

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Tad Thorne
Somerville, NJ

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Scotland Neck, NC

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Kathy Farrar
Silsbee, TX

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Fahima Haque
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Lil Pernicello
Huntingdon Valley, PA

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Jack Jackson
Westchester, PA

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Donna Hoffman
Whitehaven, PA

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Philadelphia, PA

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Rachel Roskelley
Winnemucca, NV

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Ameen Shah
Reno, NV

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Jeffrey Porterfield
Blue Hill, AR

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Kerry Mccann
Clinton, MA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Jan Palamaro
Newbury Park, CA

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Thank You,

Karen Martinez
Losangeles, CA

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Thank You,

Renee Watts
Bakersfield, CA

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Michael Donovan
Garland, TX

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Thank You,

Emily Raese
Murrieta, CA

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Thank You,

Veronica Babcock
Carlisle, PA

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Thank You,

Leila John
Brooklyn, NY

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Thank You,

Ashley Gallo
Kingston, NY

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Thank You,

Jackie Odonnell
Peabody, MA

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Chairman
Federal Communications Commission
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Thank You,

Nettie Page
New Albany, IN

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Chairman
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Ruben Gomez
Visalia, CA

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Andreas Wieman
New York City, NY

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Thank You,

Brenda Elliott
Medfield, MA

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Sean Sampey
Yorkville, IL

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Thank You,

Claudia Espinoza
Houston, TX

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Thank You,

Maria Ford
Sanpedro, CA

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Thank You,

Linda Locklear
Valleycenter, CA

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Federal Communications Commission
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Thank You,

Kathleen Becker
Carsoncity, NV

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Thank You,

Manal Suleiman
Mount Prospect, IL

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Thank You,

Marty Eyster
Sierra Madre, CA

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Thank You,

Elizabeth Zavala
Fontana, CA

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Daniel Rothchilde
Newark, DE

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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- The number of cramming complaints the FCC receives each year represent a very small percentage of consumers who use and value the services they receive.

I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Sean Cook
Houston, TX

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Thank You,

Josyanne Rene
New York, NY

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Thank You,

Amy Mullen
Pittsburg, CA

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Ed Harding
Quincy, MA

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Tom Fulgum
Pawling, NY

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Thank You,

Barbara Skinner
Cyclone, PA

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Teshia Hall
Forney, TX

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Teresa Chavez
Brownsville, TX

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Thank You,

Dick Miles
Buffalo, NY

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Melissa Tome
Chicago, IL

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Thank You,

Athena Walker
Odessa, TX

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Lisa Conti
Mills, PA

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Thank You,

Lindsay Walker
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Austin Nichols
Mc Kinney, TX

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Nancy Dobins
Vista, CA

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Florissant, MO

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Pauli Campbell
Round Rock, TX

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Mariah Carey
North Smithfield, RI

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Bertha Kim
Corona, CA

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Nathaniel Hellerstein
San Francisco, CA

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John Love
New York, NY

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I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Courtney Chambers
Danville, VA

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

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Thank You,

Jennifer Knight
Carrollton, MO

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Thank You,

Gregor Sampson
San Francisco, CA

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Pieter Capozzi
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Dana Washington
Grand Prairie, TX

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Christina McAuther
San Diego, CA

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Thank You,

Robert Weiner
New York, NY

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Thank You,

Amanda Laughlin
Sacramento, CA

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Thank You,

Matilda Shnafflecock
Nelsonville, OH

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Thank You,

Catherine Dedman
Wilmington, DE

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Chairman
Federal Communications Commission
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Thank You,

Victoria Adams
Brooklyn, NY

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Addie Jensen
Long Beach, CA

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Moreno Literal
Beverly Hills, CA

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Tom Kilroy
Shrewsbury, MA

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Manish Pathak
Schaumburg, IL

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Thank You,

Michael Hornbuckle
Winnsboro, TX

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Rofeim Marina
Los Angeles, CA

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Thank You,

Gina Dufrane
West Valley, NY

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Thank You,

Mary Petrarca
Little Compton, RI

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Bobay John
Yorktown Heights, NY

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Thank You,

Olatokunbo Sahid
Washington, DC

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Thank You,

Leslie Green
Dallas, TX

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Carol Lee
Dittmer, MO

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

During these difficult economic times, my family tries to save money everywhere we can, and third-party billing helps consumers like us afford services such as long-distance calling, voicemail and Internet, Voice over IP, e-fax, operator assisted calls and many other services offered by small businesses that do not have their own billing systems. Third-party billing also gives us the option to choose from a wide range of vendors so we aren't locked into a single contract with a single company.

I agree that there are bad actors out there and that we need to protect consumers from "cramming," but banning third-party billing will hurt my family, reduce our options and raise the price of our bills. Currently:

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- The number of cramming complaints the FCC receives each year represent a very small percentage of consumers who use and value the services they receive.

I hope you think about the impact that any new rules will have on consumers like me.

Thank You,

Fressneth Ferreira
Brooklyn, NY

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John Bocchino
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Thank You,

Bonita Applebaum
Brooklyn, NY

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Thank You,

Hans Taylor
Ventura, CA

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Thank You,

Carol Buyers
Indianapolis, IN

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Thank You,

Reginald Arvizu
Fresno, CA

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Thank You,

Maxine Hoover
Glen Lyon, PA

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Thank You,

Megan Jeffreys
Riverside, CA

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Ann Duong
Randolph, MA

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Eric Swithers
Wilkes Barre, PA

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Thank You,

Michelle Cook
Dayton, OH

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Helmud Linsborough
Saint Charles, IL

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Pete Peter
Tonawanda, NY

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Raab Dorothy
Sacramento, CA

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Joann Morton
Manhattanbeach, CA